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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMOND DESMOND LOMELIN,

Defendant and Appellant.

H037478

(Santa Clara County

Super. Ct. No. CC952523)

Defendant Raymond Desmond Lomelin and Mary Mendoza were living together when defendant was incarcerated at the Santa Clara County Main Jail on Easter weekend of 2009. They were married during defendant's incarceration. Ms. Mendoza picked defendant up from the jail on August 13th and the two spent time together that day. Reports of what happened between August 13th and August 16th, when police arrived at Ms. Mendoza's home to conduct a welfare check, vary. A friend who saw bruises on Ms. Mendoza's chin and arms during this time called the police to conduct a welfare check. Ms. Mendoza told this friend that she had gotten the bruises after defendant playfully threw her in a pool. During the welfare check, Ms. Mendoza told police that defendant struck her in the face and chin after she complained about his reckless driving. At the preliminary hearing, she recanted her story, saying she lied to police because she was angry with defendant for starting a relationship with another woman who had been writing to him while he was in jail. She claimed to have gotten the bruises on her face

when she tripped and fell, and the bruises on her arms while she was moving furniture to paint the living room.

Defendant was charged with one count of inflicting corporal injury with a prior conviction within seven years. (Pen. Code §273.5, subd. (e)(1).) It was further alleged that he had two strike priors, including a juvenile adjudication. (Pen. Code sections 667, subd. (b)-(i), 1170.12.) Defendant plead no contest to the corporal injury count and admitted one strike prior. After a court trial submitted on briefing, the court found the second strike, based on the juvenile adjudication, to be true. Defendant moved to strike the prior conviction allegations pursuant to *People v. Romero* (1996) 13 Cal.4th 497 and to reduce the offense to a misdemeanor pursuant to Penal Code section 17, subdivision (b). The trial court granted defendant's motion in part, striking only the prior conviction allegation resulting from the juvenile adjudication, pursuant to Penal Code section 1385. On June 30, 2011, the trial court sentenced defendant to serve the lower term of two year, doubled for the strike, for a total of four years in state prison. Defendant waived all credits for time served in exchange for a guarantee that he would receive the lower term. The court also ordered defendant to pay a variety of fees and fines. This court granted defendant relief from default for failing to timely file a notice of appeal, and the notice of appeal was filed on January 11, 2012.

On appeal, appointed counsel filed an opening brief which states the case and the facts but raises no specific issues. We notified defendant of his right to submit written argument in his own behalf within 30 days. Thirty days have elapsed and we have received nothing from the defendant. Pursuant to our obligation as set forth in *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the record but have found no arguable issues on appeal. Therefore, we will affirm the judgment.

#### **DISPOSITION**

The judgment is affirmed.

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RUSHING, P.J.

WE CONCUR:

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PREMO, J.

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ELIA, J.